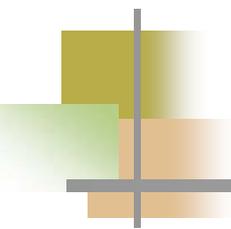


Reasonable Accommodation

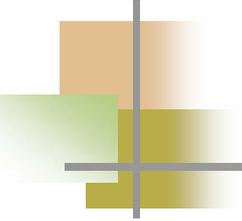


Pregnancy (EEOC, HCRC)

Disability (EEOC, DCAB, HCRC)

Religious Practices or Beliefs (EEOC, HCRC)

Domestic or Sexual Violence Victims (HRS, HCRC)



Pregnancy

Disability

Religious Practices or Beliefs

Domestic or Sexual Violence Victims

What's Covered?

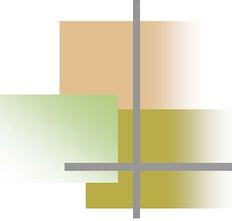
What's Reasonable?

Who's Responsible?

What's covered?

Protected Classes in Hawaii in Employment

- **Race/Color**
- **National origin**
- **Ancestry**
- **Sex (pregnancy); Gender identity**
- **Age**
- **Disability**
- **Religion**
- **Sexual orientation**
- **Marital status**
- **Arrest and court record**
- **Breastfeeding**
- **National Guard absence**
- **Child support**
- **Association with a person with a disability**
- **Credit history or report**
- **Domestic or sexual violence victim**
- **Pay based on sex**
- **Citizenship status**
- **Uniformed service**
- **HIV status/test status**



Who is Responsible?

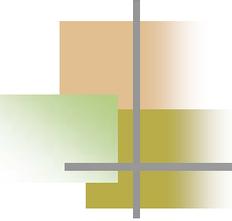
- Supervisor Responsibilities

Effective

- o Notice

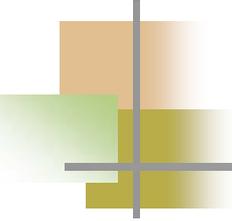
- o Participation

- o Right to Complain



Pregnancy

- Pregnant women or women affected by pregnancy must be treated in same manner as other applicants or employees with same abilities or disabilities
- Equal treatment
- An accommodation is an adjustment—different treatment
- May be viewed as special treatment, but law requires accommodation.



Pregnancy or Related Illegal to:

- Refuse to hire, fire, penalize
- Not allow to express breast milk (similar to smoking breaks)
- Retaliate
- Use prejudices of workers/clients
- Requires time away

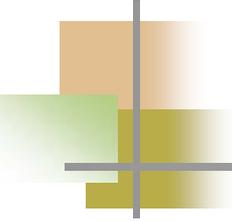
Pregnancy Related Questions and Answers

■ **Can DHS fire or require employee to take leave because of performance problems?**

Only if DHS first makes reasonable accommodation and employee is still unable to perform.

■ **What are some examples of reasonable accommodations?**

- *Time off from work for doctor appointment/s*
- *Sit instead of stand*
- *Excuse from /assist in lifting*
- *Reassign to a vacancy (not usually recommended)*
- *Breaks/rest periods; clean/safe place to express milk*
- *Sick leave*



Disability

- A qualified person with a permanent physical or mental impairment that substantially limits a major life activity
- Has a right to an effective reasonable accommodation

Disability

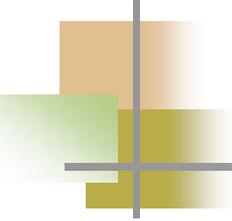
Illegal to:

- Refuse to hire, fire, penalize
- Limit, segregate, or classify
- Use prejudices of workers/clients
- Requires time away
- Retaliate

Disability

Questions and Answers

- **What does it mean to be “qualified?”**
Has the skills, education, experience, and other requirements and is able to perform the essential functions with or without reasonable accommodation
- **When is a function “essential?”**
Position exists to do it. Only a few do it. It is highly specialized. Employer determines standards, quality, and quantity. Focus on results rather than methods. Look at time spent on it, consequences of not doing it, other employees who do the same thing, how many others can do it.



Disability

Examples Reasonable Accommodation

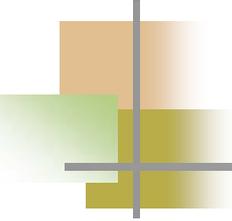
- Restructured job
- Modified or part-time schedule
- Modified policy or procedure
- Purchased/modified equipment
- Readers/interpreters or other auxiliary aids/services
- Leaves of absence
- Reassignment to a vacancy (usually not recommended)

Disability

NOT Examples

Reasonable Accommodation

- Eliminating an essential function
- Lowering standards
- Reassigning supervision
- Promoting to a higher or demoting to a lower position
- Providing personal use items
- Creating “light duty” or new jobs



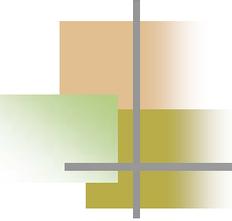
Religious Practices

- Persons who request an adjustment for their bona fide religious practice or belief is due reasonable accommodation
- Bona fide—It is a sincerely held religious practice or belief irrespective of affiliation with an established church or religion.

Religious Practices

Illegal to:

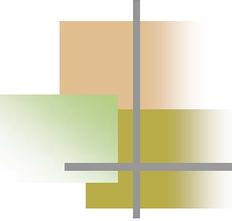
- Force participation or not
- More/less favorably
 - hire to include/exclude
 - use different requirements
 - allow religious expression
- Retaliate – “business as usual”



Religious Practices

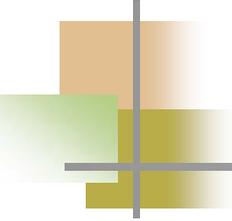
Questions and Answers

- What constitutes an effective accommodation?
An alternative that eliminates the conflict between a religious practice and an employment/service requirement
- What are some examples of effective reasonable accommodations?
 - *Leave for religious observances*
 - *Time and/or a place to pray*
 - *Ability to wear religious attire*
 - *Restructuring work/schedules*
 - *Voluntary substitutes*



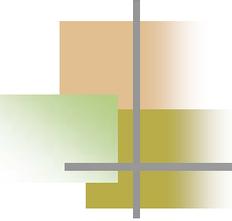
Domestic or Sexual Violence Victim Status

- Persons who provide verification and/or is known to be a victim may request a reasonable accommodation, such as:
 - Changing contact information
 - Screening telephone calls
 - Restructuring job functions
 - Changing work location
 - Installing locks/security devices
 - Flexible hours



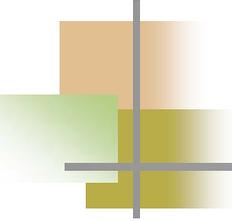
Domestic or Sexual Violence Victim Status Written Verification

- DHS may request written verification every 6 months from:
 - Victim services organization
 - Employee's attorney/advocate
 - Attorney/advocate of employee's minor child
 - Medical/health professional
 - Clergy
 - Police/court record
 - After being notified
 - After having actual knowledge
 - After receiving verification
- *If verified by a protective order with an expiration date, request only after expiration of order or extensions, whichever is later.



Overall Defense

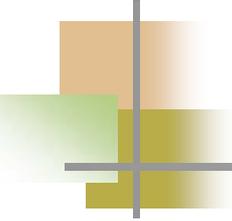
- Undue Hardship—demonstrate that accommodation would be disruptive, fundamentally alter the operation, OR require more than minimal or “administrative” cost:
 - Nature and cost
 - Financial resources
 - Operations
 - Number needing accommodation
 - Existence of bona fide seniority



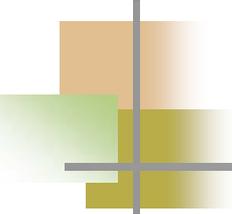
Overall Keys

- Requested
- Case-by-case
- Different
- Not usual and customary
- Not unfair; it is the law
- Interactive process
- Consideration of alternatives
- Effective

Remember



- These requirements are to provide a balance between DHS' need to operate and society's need to have equality of opportunity, full participation, and contributing members
- It's the law.
- It's your responsibility.



For More Information.....

- Pregnancy Federal <http://www.eeoc.gov/facts/fs-preg.html>
State <http://hawaii.gov/labor/hcrc/pdf/INFOpreg.pdf>
& <http://hawaii.gov/labor/hcrc/har4.shtml#12-46-106>
- Disabilities Federal http://www1.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm?renderforpring=1
State <http://hawaii.gov/labor/hcrc/har9.shtml#12-46-187>
<http://hawaii.gov/health/dcab/sohramanual/> online or
<http://hawaii.gov/health/dcab/docs/sohramanjual.pdf> print
- Religion Federal <http://www.eeoc.gov/facts/fs-religion.html>
State <http://hawaii.gov/labor/hcrc/har7.shtml#12-46-154>
- Domestic or Sexual Violence Victim Federal—NONE Not a Federal coverage
State <http://hawaii.gov/labor/hcrc/pdf/HCRC%20Act%20206%2010-18-11%20public%20hearing%20agenda.pdf> and
http://www.capitol.hawaii.gov/session2011/bills/SB229_CD1_.pdf
- gwatts@dhs.hawaii.gov 586-4955 <http://www.hawaii.gov/dhs>